

§ 273.5

accordance with the procedures listed in § 273.3.

(b) The Service may, at any time, conduct an inspection of a carrier's document screening procedures at ports of embarkation to determine compliance with the procedures listed in § 273.3, to the extent permitted by the local competent authority responsible for port access or security. If necessary, the carrier shall use its good offices to obtain this permission from the local authority. If the carrier's port of embarkation operation is found not to be in compliance, the carrier will be notified by the Service that it will not be eligible for refund, reduction, or waiver of fines under section 273(e) of the Act unless the carrier can establish that lack of compliance was beyond the carrier's control.

§ 273.5 General criteria used for reduction, refund, or waiver of fines.

(a) Upon application by the carrier, the Service shall determine whether circumstances exist which would justify a reduction, refund, or waiver of fines pursuant to section 273(e) of the Act.

(b) Applications for reduction, refund, or waiver of fine under section 273(e) of the Act shall be made in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51.

(c) In determining the amount of the fine reduction, refund, or waiver, the Service shall consider:

(1) The effectiveness of the carrier's screening procedures;

(2) The carrier's history of fines violations, including fines, liquidated damages, and user fee payment records; and,

(3) The existence of any extenuating circumstances.

§ 273.6 Memorandum of Understanding.

(a) Carriers may apply to enter into a Memorandum of Understanding (MOU) with the Service for an automatic reduction, refund, or waiver of fines imposed under section 273 of the Act.

(b) Carriers signatory to an MOU will not be required to apply for reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR

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280.12 and 8 CFR 280.51, but will follow procedures as set forth in the MOU.

(c) Carriers signatory to an MOU will have fines reduced, refunded, or waived according to performance standards enumerated in the MOU or as determined by the Service.

(d) Carriers signatory to an MOU are not precluded from seeking additional reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51.

PART 274—SEIZURE AND FORFEITURE OF CONVEYANCES

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AUTHORITY: 8 U.S.C. 1103, 1324(b).

SOURCE: 53 FR 43187, Oct. 26, 1988, unless otherwise noted.

§ 274.1 Definitions.

The following definitions apply to the following terms in this part:

(a) The term *appraised value* means the estimated price at the time and place of seizure, if such or similar property were freely offered for sale.

(b) The term *beneficial owner* means a person who has dominion and control